

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION**

RAMONA STINE

CIVIL ACTION NO. 07-0858

VS.

JUDGE DOHERTY

DOLGENCORP INC.

MAGISTRATE JUDGE METHVIN

JURISDICTIONAL REVIEW RULING

Before the court is defendant's submission on jurisdictional amount, pursuant to court order.¹ Plaintiff has filed no response.

A removing defendant must prove by a preponderance of the evidence that the amount in controversy exceeds \$75,000 by either (1) demonstrating that it is facially apparent that the claims are likely above \$75,000 or (2) setting forth the specific facts in controversy that support a finding of the jurisdictional amount. Simon v. Wal Mart Stores, 193 F.3d 848 (5th Cir. 1999); Luckett v. Delta Airlines, Inc., 171 F.3d 295 (5th Cir. 1999).

Defendant's memorandum and exhibits adequately establish by a preponderance of the evidence that the amount in controversy exceeds \$75,000. Plaintiff alleges that while shopping at defendant's store, boxes fell and hit her, causing her to fall to the floor and hit her head on a shelf. As a result of the accident, plaintiff alleges that she suffered, "injuries and damages including, but not limited to, headaches, shoulder pain, neck pain, and dizzy spells."²

In response to the undersigned's order requiring submission on jurisdictional amount, defendant submitted medical records showing that at the time of removal, plaintiff had

¹ Defendant was ordered to file a memorandum with supporting documentation setting forth specific facts in controversy which supported a finding that the jurisdictional amount exists [Rec. Doc. 8]. Defendant's submission was filed as Rec. Doc. 10.

² Rec. Doc. 1-2.

undergone cervical surgery and had incurred over \$65,000.00 in medical expenses. Further, defendant cites cases where plaintiffs with injuries similar to Stine's were awarded between \$125,000.00 and \$300,000.00 in general damages.

Based on the foregoing, the undersigned concludes that the jurisdictional amount has been established and an order of remand would not be appropriate.

Signed at Lafayette, Louisiana, on September 13, 2007.

A handwritten signature in black ink, appearing to read 'M. Methvin', is written over a horizontal line.

Mildred E. Methvin
United States Magistrate Judge
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